

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 FEDERAL NATIONAL MORTGAGE
9 ASSOCIATION, its successors or assigns,

10 Plaintiff,

11 v.

12 NED E. POUEU, et al.,

13 Defendants.

CASE NO. C12-5472 BHS

ORDER GRANTING
PLAINTIFF'S MOTION TO
REMAND UNLAWFUL
DETAINER ACTION AND
DENYING COSTS AND FEES

14 This matter comes before the Court on Plaintiff Federal National Mortgage
15 Association's ("Federal") motion to remand an unlawful detainer action and for costs and
16 fees. Dkt. 4. Although Defendants removed this action from state court to federal court
17 on May 30, 2012, they have failed to file a response to Federal's instant motion to
18 remand.

19 Rule 7(b)(2) of the Local Rules states that "[i]f a party fails to file papers in
20 opposition to a motion, such failure may be considered by the court as an admission that
21 the motion has merit."

1 On June 28, 2012, Federal filed a motion to remand the unlawful detainer action to
2 state court. Dkt. 4. In its motion, Federal demonstrates that this Court lacks subject
3 matter jurisdiction over the action. Thus, relief cannot be obtained through this Court and
4 remand to state court is proper. *Id.* Further, Defendants have failed to file a brief in
5 opposition to this motion, which the Court considers an admission that Federal's motion
6 has merit pursuant to Rule 7(b)(2). Accordingly, the Court concludes that Federal's
7 motion to remand should be granted.

8 Federal also requests an award of costs and fees associated with preparing this
9 motion. In summary, Federal argues it should be awarded costs and fees because
10 Defendants' sole argument for removal was meritless and caused unnecessary delay and
11 expense in this case. Dkt. 4 at 9. Additionally, Federal notes that Defendants' removal
12 took place exactly one day before the state court's hearing on the unlawful detainer action
13 and nearly a month after the removal period had expired, suggesting that Defendants'
14 actions were designed simply to delay proceedings and are in bad faith. *See id.*

15 While the Court disapproves of tactics designed to unnecessarily delay
16 proceedings, it also recognizes, as does Federal, that the Defendants in this case are *pro*
17 *se. Id.* Unless Defendants were clearly acting in bad faith, the Court grants some leeway
18 to *pro se* parties as they attempt to navigate a complex legal system. The Court does not
19 find the Defendants clearly acted in bad faith. Therefore, the Court declines to grant
20 Federal's request for costs and fees.

The Court, having considered the pleadings filed in support of the motion and the remainder of the file, does hereby find and **ORDER** that Federal's motion to remand (Dkt. 4) is **GRANTED**, and their motion for costs and fees (Dkt. 4) is **DENIED**.

Dated this 22nd day of August 2012.



BENJAMIN H. SETTLE
United States District Judge